Justice that section 18A leaves no discretion with the commissioner upon proof of compliance with section 18A (1)(a)(b) and (c) already quoted in his judgment. In the absence of any provision as to the mode of inquiry, we are of the view that no question of failure to observe the principles of natural justice can arise. The commissioner's functions under section 18A appear to us to be purely administrative and any act pursuant thereto is not amenable to *certiorari*.

The appeal is therefore dismissed. Pursuant to section 69 of the Courts of Judicature Act 1964, we would amend the order of the commissioner by substituting for the "tenant", wherever the word appears the words "the administrators of the estate of Haji Mohamed Jee @ Haji Mohd Jee". With regard to costs, we order that the sum of $500 deposited in court be paid out in the sum of $250 each to the first and second respondents.

Appeal dismissed.

Solicitors: *K. L. Rekhraj & Co.; Shook Lin & Bok; Richard Talalla & Co.*

PUBLIC PROSECUTOR v. CHANG SIEW MENG

[A.Cr.J. (Abdul Hamid J.) June 9, 1972]

[Kuala Lumpur — Selangor Criminal Appeal No. 6 of 1972]

Road Traffic — Heavy vehicle — Duty of care and attention — Road Traffic Ordinance, 1958, s. 36(1).

Criminal Law and Procedure — Driving heavy vehicle without due care and attention — Sentence as public interest.

In this case the respondent was convicted of driving a motor bus without due care and attention an offence under section 36(1) of the Road Traffic Ordinance, 1958. He was fined $120.

The Public Prosecutor appealed against the inadequacy of sentence.

Held, allowing the appeal: where the driver had driven a bus without due care and attention and had caused extensive damage to another vehicle, the magistrate in the interest of the public, in imposing sentence should have imposed a fine which should have some deterrent effect. Fine increased to $300.

MAGISTRATE'S CRIMINAL APPEAL.

Tengku Suleiman bin Sultan Ismail (Deputy Public Prosecutor) for the appellant.

Respondent in person.

Abdul Hamid J. (delivering oral judgment): This is an appeal by the Public Prosecutor against the inadequacy of sentence.

The respondent was charged for driving a motor bus BD 6404 without due care and attention, an offence punishable under s.36(1) of the Road Traffic Ordinance, 1958. He was convicted and sentenced to a fine of $120.

In the grounds of judgment, the magistrate stated that she considered the fine as fair, reasonable and adequate punishment. She further stated that she bore in mind the fact that the maximum fine was $500 and that the respondent had pleaded guilty and this itself was a mitigating factor.

In my view, this is a proper case for me to interfere with the sentence passed by the magistrate. The sentence was manifestly inadequate having regard to the facts and circumstances of this case.

The magistrate ought to have borne in mind that the respondent in this case was driving a heavy vehicle and, as such, he owed a very great duty to other road users. A person driving a vehicle of this nature is likely to cause untold damage if he does not drive with care and attention. In the instant case, the respondent had clearly driven the bus without due care and attention and had caused extensive damage to another vehicle. It is therefore in the interest of the public that in imposing sentence, the magistrate should have imposed a fine which would have some deterrent effect.

For these reasons, I would allow the appeal and substitute a fine of $300 in default one month's imprisonment. Endorsement of driving licence confirmed.

Appeal allowed.